



COMMODITY FUTURES TRADING COMMISSION

Agency Information Collection Activities under OMB Review

AGENCY: Commodity Futures Trading Commission.

ACTION: Notice.

SUMMARY: In compliance with the Paperwork Reduction Act of 1995 (“PRA”), this notice announces that the Information Collection Request (“ICR”) abstracted below has been forwarded to the Office of Information and Regulatory Affairs (“OIRA”) of the Office of Management and Budget (“OMB”) for review and comment. The ICR describes the nature of the information collection and its expected costs and burden.

DATES: Comments must be submitted on or before **[INSERT DATE 30 DAYS AFTER DATE OF PUBLICATION IN THE FEDERAL REGISTER]**.

ADDRESSES: Written comments and recommendations for the proposed information collection should be submitted within 30 days of this notice’s publication to OIRA, at <https://www.reginfo.gov/public/do/PRAMain>. Please find this particular information collection by selecting “Currently under 30-day Review—Open for Public Comments” or by using the website’s search function. Comments can be entered electronically by clicking on the “comment” button next to the information collection on the “OIRA Information Collections Under Review” page, or the “View ICR—Agency Submission” page. A copy of the supporting statement for the collection of information discussed herein may be obtained by visiting <https://www.reginfo.gov/public/do/PRAMain>.

In addition to the submission of comments to <https://Reginfo.gov> as indicated above, a copy of all comments submitted to OIRA may also be submitted to the Commodity Futures Trading Commission (the “Commission” or “CFTC”) by clicking on the “Submit Comment” box next to the descriptive entry for OMB Control No. 3038-0088, at <https://comments.cftc.gov/FederalRegister/PublicInfo.aspx>.

Or by either of the following methods:

- *Mail*: Christopher Kirkpatrick, Secretary of the Commission, Commodity Futures Trading Commission, Three Lafayette Centre, 1155 21st Street NW, Washington, DC 20581.

- *Hand Delivery/Courier*: Same as Mail above.

All comments must be submitted in English, or if not, accompanied by an English translation. Comments submitted to the Commission should include only information that you wish to make available publicly. If you wish the Commission to consider information that you believe is exempt from disclosure under the Freedom of Information Act, a petition for confidential treatment of the exempt information may be submitted according to the procedures established in § 145.9 of the Commission's Regulations (17 CFR 145.9). The Commission reserves the right, but shall have no obligation, to review, pre-screen, filter, redact, refuse or remove any or all of your submission from <https://www.cftc.gov> that it may deem to be inappropriate for publication, such as obscene language. All submissions that have been redacted or removed that contain comments on the merits of the ICR will be retained in the public comment file and will be considered as required under the Administrative Procedure Act and other applicable laws, and may be accessible under the Freedom of Information Act.

FOR FURTHER INFORMATION CONTACT: Dina Moussa, Attorney Advisor, Market Participants Division, Commodity Futures Trading Commission, (202) 418-5696 or dmoussa@cftc.gov, and refer to OMB Control No. 3038-0088.

SUPPLEMENTARY INFORMATION:

Title: Swap Documentation (OMB Control No. 3038-0088).¹ This is a request to revise a currently approved information collection.

¹ The collections of information under OMB control numbers 3038-0068, 3038-0083, and 3038-0088 are now consolidated under OMB control number 3038-0088, and OMB control numbers 3038-0068 and 3038-

Abstract: On September 11, 2012, the Commission adopted Commission Regulations 23.500 through 23.505² (the “Regulations”) under Sections 4s(f), (g) and (i)³ of the Commodity Exchange Act (“CEA”). The Regulations require, among other things, that swap dealers (“SDs”)⁴ and major swap participants (“MSPs”)⁵ develop and retain written swap trading relationship documentation. They also establish requirements for SDs and MSPs regarding swap confirmation, portfolio reconciliation, and portfolio compression. Under the Regulations, SDs and MSPs are obligated to maintain records of the policies and procedures required by the rules.⁶

Confirmation, portfolio reconciliation, and portfolio compression are important post-trade processing mechanisms for reducing risk and improving operational efficiency. The information collection obligations imposed by the Regulations are necessary to ensure that each SD and MSP maintains the required records of their business activities and an audit trail sufficient to conduct comprehensive and accurate trade reconstruction. The information collections contained in the Regulations are also essential to ensuring that SDs and MSPs document their swaps, reconcile their swap portfolios to resolve discrepancies and disputes, and wholly or partially terminate some or all of their outstanding swaps through regular portfolio compression exercises. These collections of information are mandatory.

0083 have been withdrawn as of July 5, 2022. Concurrently with this change, the Commission has changed the name associated with OMB control number 3038-0088 to “Swap Documentation.” While the collection has been extended until June 30, 2025, this 30-day notice reflects the correction in aggregate burden hours for the consolidated collection, and officially affirms the discontinuance of OMB control numbers 3038-0068 and 3038-0083.

² 17 CFR 23.500 through 23.505.

³ 7 U.S.C. 6s(f), (g) & (i).

⁴ For the definition of SD, *see* Section 1a(49) of the CEA and Commission Regulation 1.3; 7 U.S.C. 1a(49) and 17 CFR 1.3.

⁵ For the definitions of MSP, *see* Section 1a(33) of the CEA and Commission Regulation 1.3; 7 U.S.C. 1a(33) and 17 CFR 1.3.

⁶ SDs and MSPs are required to maintain all records of policies and procedures in accordance with Commission Regulations 23.203 and, by extension, 1.31, including policies, procedures, and models used for eligible master netting agreements and custody agreements that prohibit custodian of margin from re-hypothecating, repledging, reusing, or otherwise transferring the funds held by the custodian. *See* 17 CFR 1.31 and 23.203.

In this particular instance, while the information collection has been extended until June 30, 2025, the Commission is revising its aggregate burden by removing the burden hour estimate on cleared swap recordkeeping, as this subcategory was proposed in 2012 but not finalized by the Commission and its burden estimate had been included erroneously under this information collection in previous renewals.⁷ Additionally, the total number of respondents (combined SDs and MSPs) is now increased to 108. The overall burden hours for each remaining category within the information collection have increased proportionally, to reflect the increase in the number of respondents.

An agency may not conduct or sponsor, and a person is not required to respond to, a collection of information unless it displays a currently valid OMB control number.⁸ On August 19, 2022, the Commission published in the Federal Register notice of the proposed extension of this information collection and provided 60 days for public comment on the proposed renewal, 87 FR 51065 (“60-Day Notice”). The Commission did not receive any comments on the 60-Day Notice.

Burden Statement: Based on the proposed revisions to the estimated aggregate burden as discussed above, the respondent burden for this collection is estimated to be as follows:

Estimated Number of Respondents: 108

Estimated Average Burden Hours Per Respondent: 7,324.5.

Estimated Total Annual Burden Hours: 791,046.

Frequency of Collection: As applicable.

⁷See 77 FR 55903 (Sept. 11, 2012) (The Commission has considered the commenters’ recommendation to delete the clearing record provisions of § 23.504(b)(6)(iii) and (iv) and agrees that there is no need to include in the trading documentation a record of the names of the clearing members for the SD, MSP, or counterparty. Once a swap is accepted for clearing, the identity of a counterparty’s clearing member is no longer relevant and requiring such a record has the possibility to undermine the anonymity of central clearing. Therefore, those provisions have been deleted from the final rule. Similarly, § 23.504(b)(6)(i) and (ii) have been removed because those records will be captured under the SD and MSP recordkeeping requirement, § 23.201(a)(3), and the Commission believes those records are sufficient.).

⁸ 44 U.S.C. 3512, 5 CFR 1320.5(b)(2)(i) and 1320.8 (b)(3)(vi).

There are no capital costs or operating and maintenance costs associated with this collection.

(Authority: 44 U.S.C. 3501 *et seq.*)

Dated: October 19, 2022,

Robert Sidman,

Deputy Secretary of the Commission.

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